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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,747	03/20/2001	Julian S. Mullaney	9200-2	1352

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EXAMINER

KYLE, CHARLES R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/812,747

Applicant(s)

MULLANEY, JULIAN S.

Examiner

Charles Kyle

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 7, 14, 17, 15, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They recite the phrase “and/or” which makes the scope of the Claims unclear.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They recite the concept of “allowing” various functions, with the result that it is unclear whether the Claim language actually requires that the functions occur.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0049816 *Costin, IV et al* in view of US 6,064981 *Barni et al*.

**With respect to Claim 1**, see the discussion of Claim 10, which is a superset of Claim 1.

**As to Claims 2, 4 and 8**, see the discussion of Claim 10.

Art Unit: 3624

**As to Claim 3**, see the discussion of Claim 1 and 13.

**As to Claims 5**, see the discussion of Claims 19, 23 and 10.

**As to Claims 6**, see the discussion of Claim 1 and Claim 14.

**As to Claim 7**, see the discussion of Claim 1 and Claim 15.

**As to Claim 9**, see the discussion of Claim 1 and Claim 11.

**With respect to Claim 10**, *Costin, IV* discloses the invention substantially as claimed, including in an intermediary marketing communication system that facilitates the establishment of cross-referral agreements among members of a marketing community (Abstract; Summary of the Invention), elements of:

a communications server hosted by an intermediary (Fig. 1A, eles. 36, 38; paras. 64-65), wherein the communications server is configured to send messages to clients of members, and wherein the communications server is configured to include information about a member within messages sent on behalf of another member to clients of the other member pursuant to a cross-referral agreement between the members (Figs. 7-8, paras. 72-76);

a virtual area that is remotely accessible by members of the marketing community and that contains member provided information (Figs. 2-17 and related text);

means for allowing members to search member provided information contained within the virtual area to identify potential partners to cross-referral agreements (Fig. 20; paras. 80-82).

*Costin, IV* does not specifically disclose additional limitations of an agreement server remotely accessible by members of the marketing community, and configured to allow members of the marketing community to negotiate and establish cross-referral agreements with other

Art Unit: 3624

members and means for allowing members to sell or trade rights in cross-referral agreements with other members. *Barni* discloses an agreement server (Col. 7, line 55 to Col. 8, line 3) for negotiating sale or trading of rights (Col. 4, lines 15-41, particularly, lines 23-30). It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Costin, IV* to include the limitations disclosed by *Barni* because this would provide the technical infrastructure to identify members suitable for the negotiation and trading of rights in cross-referral agreements. See *Barni* at Summary of the Invention for support of this motivation to combine the references.

**As to Claim 11,** *Costin, IV* discloses messages as e-mail at Figs. 10 and 21-23.

**Concerning Claim 12,** *Barni* discloses auctions for rights at Col. 4, lines 15-41, particularly, lines 23-30.

**With respect to Claim 13,** *Costin, IV* discloses transfer of fees at paras. 29-36.

**Regarding Claim 14,** *Costin, IV* discloses identification of services at Fig. 20 and paras. 80-82.

**As to Claim 15,** *Costin, IV* discloses addition of information at Figs. 2-5 and 9-11.

**With respect to Claim 16,** see the discussion of Claim 10, which is a superset of Claim 16.

**Concerning Claims 17-19,** see the discussion of Claim 16 and Claims 14 and 12.

**As to Claims 20-23,** see the discussion of Claims 16 and Claims 14 and 12.

Art Unit: 3624

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Crk  
February 28, 2006

**Primary Examiner**  
**Charles Kyle**  
**Art Unit 3624**

A handwritten signature in black ink, appearing to read 'Charles Kyle', is written below the printed name.